

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

RAYMOND J. BERGERON DAVILA,

Plaintiff,

v.

ANTONIO CHAVEZ,

Defendant.

Case No. 18-CV-543-JPS

ORDER

Plaintiff filed this action on April 6, 2018, alleging that Defendant had used excessive force against him while he was incarcerated at the Racine County Jail. (Docket #1). On May 3, 2018, the Court ordered Plaintiff to supply a certified copy of his prison trust account statement as required by the Prison Litigation Reform Act. (Docket #4). The Court's deadline for doing so was May 17, 2018, and that date has passed without Plaintiff filing the required statement. In a "motion to dismiss" filed on May 8, 2018, Plaintiff suggests that he attempted to file the statement but that his institution's e-filing staff had misplaced the document. (Docket #5). He states that if the statement was indeed not filed, he desires that this case be dismissed without prejudice. This action would have been dismissed without prejudice in either event, whether upon Plaintiff's motion or for violation of the Court's order. *See* Civ. L. R. 41(c). The Court has no information upon which to assess the validity of the accusations made in the motion to dismiss. Prudence counsels, then, that this action be dismissed on the Court's own initiative, and that Plaintiff's motion be denied as moot.

Accordingly,

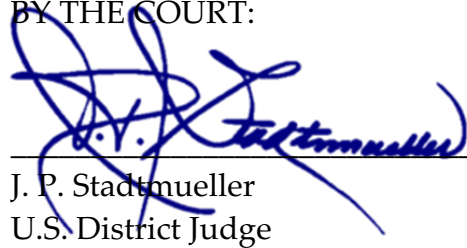
IT IS ORDERED that this action be and the same is hereby **DISMISSED without prejudice**; and

IT IS FURTHER ORDERED that Plaintiff's motion to dismiss (Docket #5) be and the same is hereby **DENIED as moot**.

The Clerk of the Court is directed to enter judgment accordingly.

Dated at Milwaukee, Wisconsin, this 22nd day of May, 2018.

BY THE COURT:



J. P. Stadtmueller
U.S. District Judge